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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,379	02/12/2002	Charles E. Taylor	SHPR-01028US6 SRM	5582
23910	7590	04/05/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			MCDONALD, RODNEY GLENN	
			ART UNIT	PAPER NUMBER
			1753	

DATE MAILED: 04/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/074,379	<b>Applicant(s)</b> TAYLOR ET AL	
	<b>Examiner</b> Rodney G. McDonald	<b>Art Unit</b> 1753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/03,10/02,5/02</u> . | 6) <input type="checkbox"/> Other: ____.  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang (U.S. Pat. 5,702,507).

Wang teach an air cleaner. The housing is made up of a case 1 and base 10. (Column 1 lines 54-58) The air enters through the front of the case and exits through slots 13. (Column 2 line 40 and line 58) An ion generator is present on the dust collecting plate 2 in the form of collecting means 21 and needle-like electric discharge rods 22. When supplied with electricity at a proper place the dust collecting means 21 and the electric discharge rods 22 will cooperate, causing the air to be electrically charged so as to collect such air onto the dust collecting plate 2. (Column 1 lines 61-68; Column 2 line 1) An ozone light tube (i.e. lamp) 5 is present to restrain the propagation of bacteria. (Column 2 lines 16-19) To clean or maintain the present invention a liftable cover 4 on the top in Figs. 1-3 is removed from the central cavity 11 of the case 1, the dust collecting plate 2 and filter plate 3 can be withdrawn from the central cavity 11, while the ozone tube (i.e. lamp) can be drawn directly from the electrodes 54 and the poles 51 drawn from the pole holders 53 disposed at the left and right lateral walls of the central cavity thereof. (Column 2 lines 63-68; Column 3 lines 1-5)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-7 and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsu (U.S. Pat. 5,656,063) in view of Wang (U.S. Pat. 5,702,507).

Hsu teach an air cleaner in Fig. 1. The apparatus includes a housing 12 having a top. The housing includes an inlet grate 16 removably mounted exteriorly of filter unit 20. Inlet grate 16 also includes a plurality of holes or slots enabling circulated air to be passed therethrough. (Column 4 lines 14-17) An outlet grate 18 is provided on the front face of the housing which includes a plurality of holes or slots enabling circulated air to be passed therethrough. (Column 4 lines 8-10) An ion generator 36 is provided which includes a plurality of discharge needles 38 and a charge distribution plate 39

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which electrically communicates with the discharge needles 38. (Column 4 lines 32-36)

A power source provides electricity to the ion generator. (Column 5 lines 50-51) An ozone generator 50 can be provided to the apparatus. (Column 5 lines 7-9) The housing is elongated with elongate slots. (See Fig. 1) Presumably the device is standable on any of the four sides except for the air inlet and air outlet. Standing the device on its smaller side would then teach a vertically upstanding device with vertical elongated fins. (See Fig. 1)

The differences between Hsu and the present claims is that the removal of the secondary electrode for cleaning is not discussed, the use of a germicidal lamp to produce ozone is not discussed, the removability of the germicidal lamp is not discussed and the removability of the germicidal lamp through the side is not discussed.

Wang is discussed above and teach providing a removable top to the housing such that the dust collecting plate 2 which is made up of two electrodes can be removed and cleaned. (See Wang discussed above)

Wang is discussed above and teach providing a germicidal lamp in the housing of an air cleaner in order to prevent bacteria. (See Wang discussed above)

Wang discussed above teach that the germicidal lamp can be removed from the top as well. (See Wang discussed above)

Presumable since Hsu teach a removable inlet and outlet one can access the interior components and that the components could be removed from the side. (See Fig. 1; Hsu discussed above)

The motivation for removing the second electrode and the germicidal lamp is that it allows for providing a device that can easily be cleaned. (See Abstract)

The motivation for utilizing a germicidal lamp is that it allows for reduction in bacteria. (Column 2 line 16)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Hsu by utilizing a removable secondary electrode and a removable germicidal lamp to produce ozone as taught by Wang is that it allows for the reduction of bacteria and ease of cleaning of the air purifying device.

Claim 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over as applied to claims 1-7 and 9-14 above, and further in view of Smith et al. (U.S. Pat. 5,641,342).

The difference not yet discussed is where the second electrode has a handle and the lamp has a handle for removal from the apparatus.

Smith et al. teach that for providing a handle for panels removable from an air cleaning apparatus to allow for ease of removal of the panels from the apparatus and for ease of cleaning and the like. (Column 4 lines 66-68; Column 5 lines 1-4)

The motivation for utilizing a handle attached to a panel in an air cleaning apparatus is that it allows for ease of removal of the panels from the apparatus and for ease of cleaning. (Column 4 lines 66-68; Column 5 lines 1-4)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a handle to slide means in and out of an

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air cleaner as taught by Smith et al. because it allows for ease of removal and for ease of cleaning.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/074,096. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 10/074,096 teaches the claimed air conditioner including a housing having a top a removable inlet and an outlet, an ion generator with power source, a germicidal lamp and the germicidal lamp being removable. (See Claims 1-90)

The difference between Application No. 10/074,096 and the present claims is the removability of the second electrode.

Wang is discussed above and teach the removability of the second electrode.  
(See Wang discussed above)

The motivation for removing the second electrode is that it allows for providing a device that can easily be cleaned. (See Wang Abstract)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Application 10/074,096 by utilizing a removable electrode as taught by Wang because it allows for providing a device that can easily be cleaned.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-10 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of copending Application No. 10/074,347. Although the conflicting claims are not identical, they are not patentably distinct from each other because Application No. 10/074,347 teaches the claimed air conditioner including a housing having a top a removable inlet and an outlet, an ion generator with power source, a germicidal lamp and the germicidal lamp being removable. (See Claims 1-38)

The difference between Application No. 10/074,347 and the present claims is the removability of the second electrode.

Wang is discussed above and teach the removability of the second electrode.  
(See Wang discussed above)

The motivation for removing the second electrode is that it allows for providing a device that can easily be cleaned. (See Wang Abstract)



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Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Application 10/074,347 by utilizing a removable electrode as taught by Wang because it allows for providing a device that can easily be cleaned.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney G. McDonald whose telephone number is 571-272-1340. The examiner can normally be reached on M- Th with Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Rodney G. McDonald  
Primary Examiner  
Art Unit 1753

RM  
March 29, 2004